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J.B., Appellant)	
)	
and)	Docket No. 21-1169
)	Issued: May 12, 2022
DEPARTMENT OF VETERANS AFFAIRS,)	
VETERANS AFFAIRS NORTH)	
FLORIDA/SOUTH GEORGIA HEALTH CARE,)	
OCALA WEST SPECIALTY CLINIC,)	
Ocala, FL, Employer)	
)	

Case Submitted on the Record

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

¹ 5 U.S.C. § 8101 *et seq.*

causally related to factors of her federal employment including repetitive typing, scheduling appointments, folding letters, stuffing envelopes, and writing messages. She noted that she first became aware of her condition on April 9, 2020 and realized its relation to her federal employment on May 19, 2020. Appellant did not stop work.²

Appellant submitted November 8, 2019 and May 19 and June 10 and 24, 2020 reports from Matthew Ota, a physician assistant. Mr. Ota noted her complaints of bilateral hand pain, and right elbow pain. He related an assessment of right carpal tunnel syndrome.

In a report dated May 27, 2020, Dr. Eduardo J. Cruz-Colon, a Board-certified physiatrist, related that appellant was seen for complaints of tingling and numbness to the right hand since April 2020. He noted that she had undergone carpal tunnel surgery in approximately 2013. Dr. Cruz-Colon reviewed the findings of a nerve conduction velocity/electromyogram (NCV/EMG) study, which he concluded was abnormal and revealed evidence of moderate right carpal tunnel syndrome.

In a development letter dated June 29, 2020, OWCP informed appellant that the evidence submitted was insufficient to establish her claim. It advised her of the type of medical evidence needed and afforded her 30 days to respond.

Appellant submitted an NCV/EMG study dated May 27, 2020, which indicated findings of moderate right carpal tunnel syndrome affecting motor and sensory components.

In notes dated July 14, 2020, Dr. Stephen Pyles, a Board-certified anesthesiologist, examined appellant for complaints of left-sided wrist pain and numbness. On physical examination of the extremities, he observed normal range of motion, movement, and reflexes. Dr. Pyles diagnosed status post left wrist carpal tunnel syndrome revision on February 27, 2019.

By decision dated July 29, 2020, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish a diagnosed condition in connection with the accepted work-related factors. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

OWCP thereafter received surgical records relating that appellant underwent a percutaneous tenotomy of the right lateral elbow and a right carpal tunnel release on June 24, 2014. On February 27, 2019 appellant underwent a repair of a median nerve with application of a synthetic conduit and neuroplasty to treat a left-sided lesion to the carpal tunnel median nerve.

In a report dated July 16, 2020, Dr. Nirav Gupta, a Board-certified orthopedic surgeon, examined appellant for complaints of bilateral elbow pain and epicondylitis. On physical examination of the right lateral elbow, he observed pain to palpation over the lateral aspect of the elbow to the lateral epicondyle and the radial tunnel, as well as minimal pain with resisted extension of the wrist and index finger. On examination of the right hand, Dr. Gupta observed a positive carpal compression test and noted that appellant's left hand was worse than her right. He diagnosed radial tunnel syndrome of the right upper limb, carpal tunnel syndrome of the left upper

² On March 29, 2013 appellant filed a traumatic injury claim (Form CA-1) alleging that she sustained inflammation of tissues and tendons of the right forearm, thumb and index finger, due to an assault by a coworker. OWCP assigned this claim OWCP File No. xxxxxx534 and accepted it for right wrist contusion. The current claim has been administratively combined by OWCP with OWCP File No. xxxxxx534, with the latter serving as the master file.

limb, and right lateral epicondylitis. Dr. Gupta stated that it was safe to assume that duties of appellant's work caused her right upper extremity's pain, noting that she engaged in a heavy amount of typing.

In a note dated July 28, 2020, Dr. Cruz-Colon described administration of an ultrasound-guided right radial tunnel steroid injection for treatment of right elbow pain.

On December 31, 2020 appellant requested reconsideration.

In a report dated July 23, 2020, Dr. Gupta diagnosed a lesion of the right radial nerve, left carpal tunnel syndrome, and right lateral epicondylitis. He noted that he could not attribute appellant's "conditions to [appellant's] job at the 100 percent level," and that "[t]hey can be related and that is all I can say."

In a report dated December 4, 2020, Dr. Donna Saatman, a Board-certified neurosurgeon, examined appellant for ongoing issues with carpal tunnel syndrome. She noted that appellant had ongoing issues since 2015 and had been diagnosed with right cubital tunnel syndrome. On physical examination of the upper extremities, Dr. Saatman observed a positive Tinel's response over the right and left wrist and elbow, decreased grip strength bilaterally, and diminished sensory activity in the median and ulnar nerves. She diagnosed bilateral carpal tunnel syndrome and right cubital tunnel syndrome. Dr. Saatman noted that there was evidence of significant tendinosis at the elbow and wrist, which was likely related to appellant's repetitive hand tasks associated with her administrative work. She opined that appellant had a preexisting condition leaving her prone to carpal tunnel syndrome and persistent nerve injury, as well as aggravation of carpal tunnel syndrome by her occupation, which was at least in part related to the diagnosis of carpal tunnel syndrome prompting surgical intervention.

By decision dated February 3, 2021, OWCP modified the prior decision, finding that appellant had submitted sufficient evidence to establish diagnoses of bilateral carpal tunnel syndrome and right cubital tunnel syndrome. However, appellant's claim remained denied as she had not submitted sufficient rationalized medical evidence to establish that factors of her federal employment caused or aggravated her diagnosed conditions.

In a report dated February 17, 2021, Dr. Gupta examined appellant for complaints of left-hand pain. He diagnosed right lateral epicondylitis, bilateral carpal tunnel syndrome, and cubital tunnel syndrome. Dr. Gupta opined that appellant's ulnar nerve condition could have been work related due to her work position. He noted that to what degree her cubital tunnel syndrome was work related was difficult for him to tell.

On April 14, 2021 appellant requested reconsideration.

By decision dated July 8, 2021, OWCP denied modification of its February 3, 2021 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁴ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.⁵

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁶ The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment incident.⁷

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a bilateral upper extremity condition causally related to the accepted factors of her federal employment.

In a report dated July 16, 2020, Dr. Gupta diagnosed radial tunnel syndrome of the right upper limb, carpal tunnel syndrome of the left upper limb, and right lateral epicondylitis. He stated that it was safe to assume that duties of appellant's work caused her right upper extremity's pain, noting that she engages in a heavy degree of typing. In a report dated December 4, 2020, Dr. Saatman diagnosed bilateral carpal tunnel syndrome and right cubital tunnel syndrome. She noted that there was evidence of significant tendinosis at the elbow and wrist, which was likely related to appellant's repetitive hand tasks associated with her administrative work. Dr. Saatman opined that appellant had a preexisting condition leaving her prone to carpal tunnel syndrome and persistent nerve injury, as well as aggravation of carpal tunnel syndrome by her occupation, which was at least in part related to the diagnosis of carpal tunnel syndrome prompting surgical

³ *Supra* note 1.

⁴ *C.K.*, Docket No. 19-1549 (issued June 30, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁶ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁷ *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

intervention. While in these reports, Drs. Gupta and Saatman provided an opinion as to the cause of appellant's diagnosed upper extremity conditions, they did not support their opinion with medical rationale explaining how her work duties caused her claimed conditions. Without explaining how, physiologically, the specific movements involved in appellant's job caused, contributed to, or aggravated the specific diagnosed conditions, their opinions in these reports are of limited probative value and insufficient to establish the claim.⁸

In a report dated July 23, 2020, Dr. Gupta diagnosed a lesion of the right radial nerve, left carpal tunnel syndrome, and right lateral epicondylitis. He noted that he could not attribute appellant's "conditions to her job at the 100 percent level," and that "[t]hey can be related and that is all I can say." In a report dated February 17, 2021, Dr. Gupta diagnosed right lateral epicondylitis, bilateral carpal tunnel syndrome, and cubital tunnel syndrome. He opined that appellant's ulnar nerve condition could have been work related due to her work position. Dr. Gupta noted that to what degree her cubital tunnel syndrome was work related was difficult for him to tell. The Board notes that, while the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, it must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.⁹ The Board thus finds that the February 17 and July 23, 2020 reports from Dr. Gupta were equivocal and as such are of limited probative value and insufficient to establish the claim.

Appellant submitted a February 28, 2019 hospital report, reports from Dr. Cruz-Colon dated May 27 and July 28, 2020, and a report from Dr. Pyles dated July 14, 2020, which did not contain opinions as to whether her diagnosed conditions were caused or aggravated by factors of her federal employment. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁰ As such, these reports are insufficient to establish appellant's claim.

Appellant submitted November 8, 2019 and May 19 and June 10 and 24, 2020, reports from a physician assistant. The Board has held that medical reports signed solely by a physician assistant, lack probative value, as they are not considered physicians as defined under FECA and, therefore, are not competent to provide a medical opinion.¹¹

⁸ See *T.F.*, Docket No. 20-0260 (issued June 12, 2020); *D.J.*, Docket No. 18-0694 (issued March 16, 2020); *K.G.*, Docket No. 18-1598 (issued January 7, 2020); *K.O.*, Docket No. 18-1422 (issued March 19, 2019).

⁹ *P.W.*, Docket No. 20-0407 (issued July 17, 2020); *Ricky S. Storms*, 52 ECAB 349 (2001).

¹⁰ *D.C.*, Docket No. 19-1093 (issued June 25, 2020); see *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹¹ Section 8101(2) of FECA provides that physician "includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law." 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). See also Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *L.T.*, Docket No. 19-0145 (issued June 3, 2019); *T.H.*, Docket No. 18-1736 (issued March 13, 2019); see *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses and physical therapists are not competent to render a medical opinion under FECA).

Lastly, appellant submitted an NCV/EMG study dated May 27, 2020. The Board has held that diagnostic test reports, standing alone, lack probative value as they do not provide an opinion on causal relationship between the claimed employment factors and a diagnosed condition.¹²

As the record lacks rationalized medical evidence establishing causal relationship between appellant's claimed conditions and the accepted factors of her federal employment, the Board finds that she has not met her burden of proof to establish her claim.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a bilateral upper extremity condition causally related to the accepted factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the July 8, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 12, 2022
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

¹² See *T.H., id.*